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**SUBSTITUTE HOUSE BILL 2220**

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**State of Washington                      60th Legislature                      2007 Regular Session**

**By** House Committee on Select Committee on Puget Sound (originally sponsored by Representative Lantz)

READ FIRST TIME 2/28/07.

1            AN ACT Relating to shellfish; amending RCW 79.135.100; adding new  
2 sections to chapter 28B.20 RCW; and creating new sections.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 28B.20 RCW  
5 to read as follows:

6            (1) The sea grant program at the University of Washington shall,  
7 consistent with this section, commission a series of scientific  
8 research studies that examines the possible effects, including the  
9 cumulative effects, of the current prevalent geoduck aquaculture  
10 techniques and practices on the natural environment in and around Puget  
11 Sound, including the Strait of Juan de Fuca. The sea grant program  
12 shall use funding provided from the geoduck aquaculture research  
13 account created in section 2 of this act to review existing literature,  
14 directly perform research identified as needed, or to enter into and  
15 manage contracts with scientific organizations or institutions to  
16 accomplish these results.

17            (2) Prior to entering into a contract with a scientific  
18 organization or institution, the sea grant program must:

1 (a) Analyze, through peer review, the credibility of the proposed  
2 party to the contract, including whether the party has credible  
3 experience and knowledge and has access to the facilities necessary to  
4 fully execute the research required by the contract; and

5 (b) Require that all proposed parties to a contract fully disclose  
6 any past, present, or planned future personal or professional  
7 connections with the shellfish industry or public interest groups.

8 (3) All research commissioned under this section must be subjected  
9 to a rigorous peer review process prior to being accepted and reported  
10 by the sea grant program.

11 (4) In prioritizing and directing research under this section, the  
12 sea grant program shall meet with the department of ecology at least  
13 annually and rely on guidance submitted by the department of ecology.  
14 The department of ecology shall convene the shellfish aquaculture  
15 regulatory committee created in section 4 of this act as necessary to  
16 serve as an oversight committee to formulate the guidance provided to  
17 the sea grant program. The objective of the oversight committee, and  
18 the resulting guidance provided to the sea grant program, is to ensure  
19 that the research required under this section satisfies the planning,  
20 permitting, and data management needs of the state, to assist in the  
21 prioritization of research given limited funding, and to help identify  
22 any research that is beneficial to complete other than what is listed  
23 in subsection (5) of this section.

24 (5) To satisfy the minimum requirements of subsection (1) of this  
25 section, the sea grant program shall review all scientific research  
26 that is existing or in progress that examines the possible effect of  
27 currently prevalent shellfish practices, including geoduck practices,  
28 on the natural environment, and prioritize and conduct new studies as  
29 needed, to measure and assess the following:

30 (a) The environmental effects of structures commonly used in the  
31 aquaculture industry to protect juvenile geoducks from predation;

32 (b) The environmental effects of commercial harvesting of geoducks  
33 from intertidal geoduck beds, focusing on current prevalent harvesting  
34 techniques, including a review of the recovery rates for benthic  
35 communities after harvest;

36 (c) The extent to which geoducks in standard aquaculture tracts  
37 alter the ecological characteristics of overlying waters while the

1 tracts are submerged, including impacts on species diversity, and the  
2 abundance of other benthic organisms;

3 (d) Baseline information regarding naturally existing parasites and  
4 diseases in wild and cultured geoducks, including whether and to what  
5 extent commercial intertidal geoduck aquaculture practices impact the  
6 baseline;

7 (e) Genetic interactions between cultured and wild geoduck,  
8 including measurements of differences between cultured geoducks and  
9 wild geoducks in terms of genetics and reproductive status; and

10 (f) The impact of the use of sterile triploid geoducks and whether  
11 triploid animals diminish the genetic interactions between wild and  
12 cultured geoducks.

13 (6) If adequate funding is not made available for the completion of  
14 all research required under this section, the sea grant program shall  
15 consult with the shellfish aquaculture regulatory committee, via the  
16 department of ecology, to prioritize which of the enumerated research  
17 projects have the greatest cost/benefit ratio in terms of providing  
18 information important for regulatory decisions; however, the study  
19 identified in subsection (5)(b) of this section shall receive top  
20 priority unless the sea grant program determines that an adequate study  
21 addressing the issues identified in subsection (5)(b) of this section  
22 has already been completed or is within six months of completion. The  
23 prioritization process may include the addition of any new studies that  
24 may be appropriate in addition to, or in place of, studies listed in  
25 this section.

26 (7) When appropriate, all research commissioned under this section  
27 must address localized and cumulative effects of geoduck aquaculture.

28 (8) The sea grant program and the University of Washington are  
29 prohibited from retaining greater than fifteen percent of any funding  
30 provided to implement this section for administrative overhead or other  
31 deductions not directly associated with conducting the research  
32 required by this section.

33 (9) Individual commissioned contracts under this section may  
34 address single or multiple components listed for study under this  
35 section.

36 (10) All research commissioned under this section must be completed  
37 and the results reported to the appropriate committees of the  
38 legislature by December 1, 2013. In addition, the sea grant program

1 shall provide the appropriate committees of the legislature with annual  
2 reports updating the status and progress of the ongoing studies that  
3 are completed in advance of the 2013 deadline.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.20 RCW  
5 to read as follows:

6 The geoduck aquaculture research account is created in the custody  
7 of the state treasurer. All receipts from any legislative  
8 appropriations directed to the account must be deposited in the  
9 account. Expenditures from the account may only be used by the sea  
10 grant program for the geoduck research projects identified by section  
11 1 of this act. Only the president of the University of Washington or  
12 the president's designee may authorize expenditures from the account.  
13 The account is subject to the allotment procedures under chapter 43.88  
14 RCW, but an appropriation is not required for expenditures.

15 **Sec. 3.** RCW 79.135.100 and 1984 c 221 s 10 are each amended to  
16 read as follows:

17 (1) If state-owned aquatic lands are used for aquaculture  
18 production or harvesting, rents and fees shall be established through  
19 competitive bidding or negotiation.

20 (2) The department is prohibited from offering leases that would  
21 permit the intertidal commercial aquaculture of geoducks on more than  
22 twenty-five acres of state-owned aquatic lands a year until December 1,  
23 2014. Any intertidal leases entered into by the department for geoduck  
24 aquaculture must be conditioned in such a way that the department can  
25 engage in monitoring of the environmental impacts of the lease's  
26 execution, without unreasonably diminishing the economic viability of  
27 the lease, and that the lease tracts are eligible to be made part of  
28 the studies conducted under section 1 of this act.

29 NEW SECTION. **Sec. 4.** (1) The shellfish aquaculture regulatory  
30 committee is established to, consistent with this section, serve as an  
31 advisory body to the department of ecology on regulatory processes and  
32 approvals for all current and new shellfish aquaculture activities, and  
33 the activities conducted pursuant to RCW 90.58.060, as the activities  
34 relate to shellfish. The shellfish aquaculture regulatory committee is

1 advisory in nature, and no vote or action of the committee may overrule  
2 existing statutes, regulations, or local ordinances.

3 (2) The shellfish aquaculture regulatory committee shall develop  
4 recommendations as to:

5 (a) A regulatory system or permit process for all current and new  
6 shellfish aquaculture projects and activities that integrates all  
7 applicable existing local, state, and federal regulations and is  
8 efficient both for the regulators and the regulated; and

9 (b) Appropriate guidelines for geoduck aquaculture operations to be  
10 included in shoreline master programs under section 5 of this act.

11 (3)(a) The members of the shellfish aquaculture regulatory  
12 committee shall be appointed by the director of the department of  
13 ecology as follows:

14 (i) Two representatives of county government, one from a county  
15 located on the Puget Sound, and one from a county located on the  
16 Pacific Ocean;

17 (ii) Two individuals who are professionally engaged in the  
18 commercial aquaculture of shellfish, one who owns or operates an  
19 aquatic farm in Puget Sound, and one who owns or operates an aquatic  
20 farm in state waters other than the Puget Sound;

21 (iii) Two representatives of organizations representing the  
22 environmental community;

23 (iv) Two individuals who own shoreline property, one of which does  
24 not have a commercial geoduck operation on his or her property and one  
25 of which who does have a commercial geoduck operation on his or her  
26 property; and

27 (v) One representative each from the following state agencies: The  
28 department of ecology, the department of fish and wildlife, the  
29 department of agriculture, and the department of natural resources.

30 (b) In addition to the other participants listed in this  
31 subsection, the governor shall invite the full participation of two  
32 tribal governments, at least one of which is located within the  
33 drainage of the Puget Sound.

34 (4) The department of ecology shall provide administrative and  
35 clerical assistance to the shellfish aquaculture regulatory committee  
36 and all agencies listed in subsection (3) of this section shall provide  
37 technical assistance.

1 (5) Nonagency members of the shellfish aquaculture regulatory  
2 committee will not be compensated, but are entitled to be reimbursed  
3 for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

4 (6) Any participation by a Native American tribe on the shellfish  
5 aquaculture regulatory committee shall not, under any circumstances, be  
6 viewed as an admission by the tribe that any of its activities, or  
7 those of its members, are subject to any of the statutes, regulations,  
8 ordinances, standards, or permit systems reviewed, considered, or  
9 proposed by the committee.

10 (7) The shellfish aquaculture regulatory committee is authorized to  
11 form technical advisory panels as needed and appoint to them members  
12 not on the shellfish aquaculture regulatory committee.

13 (8) The department of ecology shall report the recommendations and  
14 findings of the shellfish aquaculture regulatory committee to the  
15 appropriate committees of the legislature by December 1, 2007, with a  
16 further report, if necessary, by December 1, 2008.

17 NEW SECTION. **Sec. 5.** (1) The department of ecology shall develop,  
18 by rule, guidelines for the appropriate siting and operation of geoduck  
19 aquaculture operations to be included in any master program under this  
20 section. The guidelines adopted under this section must be prepared  
21 with the advice of the shellfish aquaculture regulatory committee  
22 created in section 4 of this act, which shall serve as the advisory  
23 committee for the development of the guidelines.

24 (2) The guidelines required under this section must be filed for  
25 public review and comment no later than six months after the delivery  
26 of the final report by the shellfish aquaculture regulatory committee  
27 created in section 4 of this act.

28 (3) The department of ecology shall update the guidelines required  
29 under this section, as necessary, after the completion of the geoduck  
30 research by the sea grant program at the University of Washington  
31 required under section 1 of this act.

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